IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14033 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VJ MORIA - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR IS SUPEHIA for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 01/09/2006

ORAL JUDGMENT

1. Rule. Learned AGP Shri Siraj Gori waives service of notice of rule on behalf of respondents. At the request of learned advocates appearing for

the parties, the petition is taken up for final disposal today.

2. The petitioner herein is a retired Government servant. In the present petition, he seeks relief for fixation of final pension and releasing of the withheld amount of gratuity as well as permission to commute the pension. The petitioner has claimed interest on such amounts. The petitioner retired on superannuation with effect from 30-4-2001. Since at the time of retirement the petitioner was facing multiple departmental proceedings, his pensionary benefits were not finalised. He was paid only provisional pension and his gratuity was also withheld. Subsequently, however, inquiries initiated against the petitioner were not completed by the respondents. It is not in dispute that presently no inquiry is pending against the petitioner. Submissions have been made by the respondents in the affidavit in reply wherein it is stated that it is confirmed that on 15-9-2005, all the inquiries against the

petitioner were over. The respondents have however, in the said reply pointed out that all the four inquiries resulted into imposition of some punishment or the other against the petitioner. The details of punishment orders are as follows :

“A) Rs. 700/-, pension cut for 10 years order dated 6.07.2002.
B) Rs. 500/-, pension cut for 10 years order dated 28.05.2004.
C) Rs. 25/-, pension cut for 3 years order dated 11.02.2002.
D) Rs. 300/-, pension cut for 3 years order dated 13.09.2004.”

1.1 It can thus be seen that all the inquiries initiated against the petitioner eventually resulted into different punishment orders of cut in pension for different periods. Some of these penalties are under challenge before this Court. However, at this stage, we are not concerned with the same. It is also clear that by now all the inquiries against the petitioner are over. In that view of the matter, the respondents should finalise the pension and other retiral benefits of the petitioner after giving effect to the punishment orders. If

ultimately, there is any amount still found due and payable to the petitioner, same should be released without any further delay. It may be noted that that it has been brought on record that 10% of the gratuity of the petitioner was withheld. The remaining amount is not being released in due course of time since inquiries were not completed immediately after the retirement of the petitioner. If pension of the petitioner is not yet finalised, same also needs to be made final. On that basis, if the petitioner is entitled to commute the same, his request is also required to be considered.

3. The claim of the petitioner for interest on delayed payments however, cannot be accepted. At the time of retirement, the petitioner was facing as many as four departmental inquiries which resulted into imposition of some punishment or the other against the petitioner. The Government has decided to impose cuts in the pension of the petitioner for different periods as noted here-in-above. In that view of the

matter, petitioner cannot claim interest of delayed retiral benefits.

4. In the result, the petition is disposed of by directing the respondents to finalise the pension and other post retiral benefits of the petitioner keeping in mind the penalty order passed. If any amount is still found due and payable, same shall be released expeditiously and in any case within a period of three months from the date of receipt of a copy of this order. The pension be finalised expeditiously and his request for commutation of pension shall be considered in accordance with the rules. As long as the amounts are released within a period of three months and pension finalised also within the same period, the respondents shall not carry any liability to pay any interest. To the extent of further delay there shall be burden of simple interest at the rate of 12% per annum till the actual payment of the amount. Rule made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(raghu)